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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,417	12/15/2003	Paul Michael Wickens	8294-2	3979

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EXAMINER

CHIU, RALEIGH W

ART UNIT PAPER NUMBER

3711

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/736,417

Applicant(s)

WICKENS, PAUL MICHAEL

Examiner

Raleigh Chiu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 19-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/15/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. In claims 1, 2, 5-7, 10, 11, 15 and 16, --member-- should be added after "body".

***Election/Restrictions***

2. Applicant's election without traverse of Group I (claims 1-18) in the reply filed on 07 July 2005 is acknowledged.

3. Claims 19-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 07 July 2005.

***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the holes of varying angles (claim 11) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet

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should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC §§ 102 and 103***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 2, 7, 10 and 14-17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 2,103,467 (Konikoff).

Regarding claims 1, 2, 7, 10, 14-16, Figure 1 of Konikoff shows a main body member 3,6 with at least three extending and inclined arms 2.

Regarding claim 17, Figure 4 shows the recited elongated sticks 8.

8. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Konikoff as applied above.

Regarding claim 8, discovering an optimum value of a result effective variable has been held to be within the capabilities of the person of ordinary skill in the art. It would have been obvious to a person having ordinary skill in this art, by routine experimentation, to orient the Konikoff arms within a

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reasonable angular range, including between thirty and eighty degrees with respect to vertical, to be able to support an appropriate number of sticks 8.

Regarding claim 18, Konikoff discloses different sets of sticks so that a player can easily identify his set. See Figure 4; page 1, column 2, lines 17-28. Because colors and textures were art-recognized equivalents at the time of the invention in those gaming applications where it is immaterial how an individual's game pieces are differentiated from his opponent's, one of ordinary skill in the art would have found it obvious to substitute different textures for the different colors of Konikoff.

9. Claims 1-6 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 3,617,057 (Goldfarb).

Regarding claims 1, 2, 5, 6, 9, Figure 1 of Goldfarb shows the recited base 15 and at least three extending and inclined arms/legs 11 at different angles.

Regarding claims 3 and 4, the Goldfarb footprint area and outer arm area are adjustable by adjusting the base relative to the arms.

10. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldfarb as applied above.

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Regarding claims 12 and 13, as the arms/legs of Goldfarb are free to move within base 15, the generally freestanding configuration does not require the footprint area or outer arm area to be symmetrically disposed about the vertical axis.

11. Claims 1, 10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Number 2,803,088 (Swann).

Regarding claim 1, 10 and 11, Figures 1-7 of Swann shows a main body member 10 with a plurality of holes 12 having varying angles of inclination relative to a vertical axis; a plurality of arms 13 extend away from body member 10. Further, for example, Figure 4 shows more holes than arms.

### **Conclusion**

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raleigh Chiu whose telephone number is (571) 272-4408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich, can be reached on (571) 272-4415.

The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through

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Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Raleigh W. Chiu', with a stylized flourish at the end.

Raleigh W. Chiu  
Primary Examiner  
Technology Center 3700

RWC:dei:feif  
21 July 2005